

STATE WATER RESOURCES
CONTROL BOARD

07 MAY -3 AM 7:43

DIV. OF WATER RIGHTS
SACRAMENTO

May 2, 2007

Arthur Baggett
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

Subject: Policy Statement in Regards to the Santa Ana River Hearing

Dear Board Member Baggett,

The Pacific Institute is submitting comments in regards to the Santa Ana River hearing on the basis that additional diversions could cause adverse environmental impacts and may not be in the public's interest. Our intent is not to contest any specific water rights application. Rather **we recommend that the State Water Resources Control Board impose the following minimum requirements on all water agencies seeking approval of new water rights permits.** In particular, we strongly urge the SWRCB to require that the following three requirements be met prior to approval of any new water rights permits, and specifically the rights requested in the Santa Ana River Hearing:

1. All wholesale water agencies and their retail agencies must be signatories to the California Urban Water Conservation Council (CUWCC) "Memorandum of Understanding Regarding Urban Water Conservation in California" and the Agricultural Water Management Council (AWMC) "Memorandum of Understanding Regarding Efficient Water Management Practices by Agricultural Water Suppliers in California."
2. All agencies must submit complete reports on their implementation of the Best Management Practices to the CUWCC and AWMC.
3. All agencies must be in full compliance with the requirements set forth in the Memorandum of Understanding.

Justification and Background Data

These requirements are needed to ensure compliance with the beneficial use requirements of the California Constitution, Article X, Section 2, which states:

SEC. 2. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a

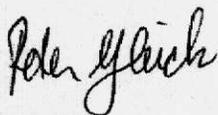
view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water.

While there are few agreed-upon measures and indicators of such "beneficial use," one of these is compliance with water efficiency "best management practices (BMPs)." Adoption of the recommendation above provides a modest assurance that such "unreasonable use" is being minimized. **Few of the agencies involved in the current Santa Ana satisfy these measures and indicators.** Indeed most appear to have a poor record of achieving improved efficiency of water use in their districts. **Thus, they are requesting additional water rights without making reasonable and beneficial use of the water currently permitted. The California Constitution explicitly rejects this** when it says "The right to water... shall be limited to such water as shall be reasonably required for the beneficial use to be served."

For example, according to the latest data from the California Urban Water Conservation Council (CUWCC), the wholesale and retail agencies currently requesting additional Santa Ana water rights have an extremely poor record of meeting even basic "best management practices." The San Bernardino Valley Municipal Water District is not a signatory of the BMPs. The Chino District is not a signatory of the BMPs. Significant numbers of the agencies purchasing water from the Western Municipal Water District are not signatories (such as Box Springs Mutual Water company, the City of Norco, the Eagle Valley Mutual Water Company, the Lee Lake Water District) or are signatories but are not in compliance (City of Corona, City of Riverside, Rancho California Water District).

These facts would strongly support a SWRCB decision to impose the three conditions described above. Thank you for your consideration.

Sincerely,



Dr. Peter H. Gleick
President: Pacific Institute
Member: U.S. National Academy of Sciences
Academician: International Water Academy, Oslo, Norway